

1/2
JAN 13 2016

6
aw

NORTH CAROLINA
ORANGE COUNTY
2017 JAN 11 P 2:24

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 15 CVS 1363

TOWN OF CHAPEL HILL, C.S.C.
Plaintiff
BY 

v.

RME MANAGEMENT, LLC,
CHAPEL H.O.M. ASSOCIATES,
LLC, and CHAPEL HILL MOTEL
ENTERPRISES, INC.
Defendants.

CONSENT FINAL ORDER AND JUDGMENT

Parent: 9799-35-2127
New: 9799-35-2260
AKB

THIS CAUSE came on before the Court for entry of this Final Order and Judgment upon the request and with the consent of all parties who have appeared in this action.

From the Court's examination of the record in this action and from the stipulations of the parties who have appeared in this action as evidenced by the signature of their counsel below, the Court makes the following findings of fact:

1. This action was duly instituted on October 23, 2015, by the issuance of Summons and the filing of a Complaint, Declaration of Taking and Notice of Deposit, along with a deposit into the Court of Thirty-Four Thousand Dollars (\$34,000), the sum estimated by Plaintiff to be just compensation for the taking of the property identified in the Complaint, Declaration of Taking and Notice of Deposit and as further described as the following property at 103 Ephesus Church Road, Chapel Hill, North Carolina: 362 square feet of permanent easement; 689 square feet of permanent drainage easement; and 3,486 square feet of temporary construction easement as further shown on in the attachment to Exhibit B in the Complaint (the Complaint, Declaration of Taking and Notice of

Return to: James Rainsford, Esq.
P.O. Drawer 1529, Hillsborough, NC 27278



MB

Deposit are incorporated herein by reference).

2. All Defendants were duly and properly served with process.
3. All persons having or claiming to have an interest in the property taken are parties to this action and are properly before the Court.
4. RME Management, LLC, Chapel H.O.M. Associates, LLC, and Chapel Hill Motel Enterprises, Inc. all consent to the entry of this order and stipulate to the findings of fact and consents to the conclusions of law as set forth in this order.
5. Neither RME Management, LLC, Chapel H.O.M. Associates, LLC, nor Chapel Hill Motel Enterprises, Inc. are aware of any other individual or entity claiming any interest in the property taken.
6. Plaintiff possesses the power, duty and authority under North Carolina law to acquire certain property interests for the public use and purpose to provide for the recreation, welfare, and comfort of the public; to promote the physical, mental, and cultural development of its citizens; and to establish and upgrade a program of public recreation and leisure time activity by constructing a public greenway.
7. Chapel H.O.M. Associates, LLC, and Chapel Hill Motel Enterprises, Inc. answered and thereafter Plaintiff and all Defendants participated in court-ordered mediation. Plaintiff and all Defendants have reached agreement as to just compensation for the property taken in this action, inclusive of any interest, cost or attorneys' fees to which Defendants might otherwise have claimed to be entitled (the Mediated Settlement Agreement). This Consent Final Order and Judgment incorporates the Mediated Settlement Agreement entered into by the parties on October 11, 2016 into this Order.
8. Plaintiff deposited into the Court in this action an initial amount of Thirty-Four



Thousand Dollars (\$34,000) and, after entering into a mediated settlement agreement with all parties, deposited into the Court in this action an additional amount of Eleven Thousand Dollars (\$11,000) for the total sum of Forty-Five Thousand Dollars (\$45,000), the agreed upon just compensation for the property taken as identified in the Complaint, Declaration of Taking and Notice of Deposit.

9. Defendants waive any right they might otherwise have to seek additional sums from Plaintiff with regard to the property taken as described in the Complaint, Declaration of Taking and Notice of Deposit.

10. This Consent Final Order and Judgment and the taking of the property at issue will not adversely affect any future development or use of the property nor will it affect future valuation in subsequent condemnation actions.

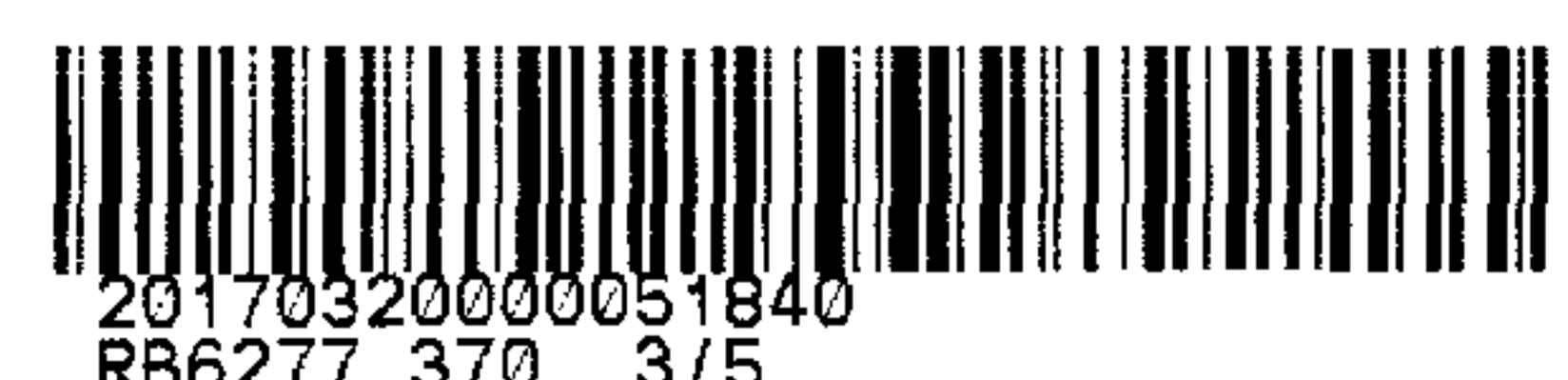
11. The terms of this Consent Final Order and Judgment including any monies paid or approximate valuation of the property are limited solely for the use in this action and shall have no effect on matters currently being litigated between or to be litigated between the Defendants; and it is not admissible as evidence in any pending or future litigation between the Defendants.

12. Each party agrees to bear its own costs in this action, including attorneys' fees except that Plaintiff and RME Management, LLC agree to be responsible for the mediator's fee.

WHEREFORE, based upon the foregoing findings of fact, the Court concludes the following, as a matter of law:

1. That Plaintiff was entitled to acquire and has acquired the permanent easements and temporary easement over the property described in the Complaint, Declaration of Taking and Notice of Deposit filed in this action.

2. The proceedings as they appear from the pleadings are regular in all respects, all parties



are properly before the Court and the case is, in all respects, appropriate for the entry of this final judgment.

3. Except as expressly set forth herein, none of Defendants are entitled to any further relief from Plaintiff as a result of this taking of the property interest identified in the Complaint, Declaration of Taking and Notice of Deposit.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

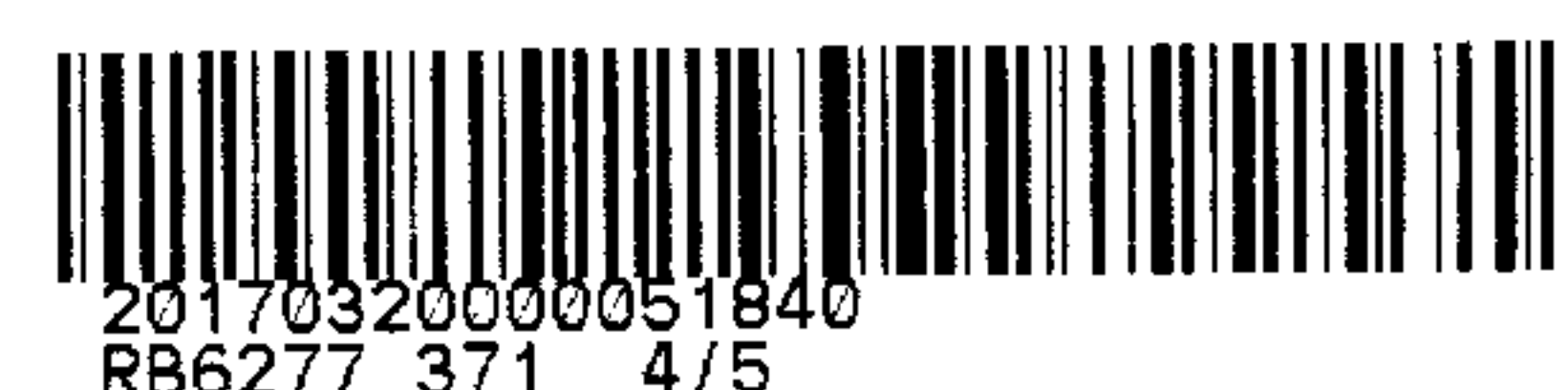
1. Plaintiff has condemned and is and shall be permanently vested with the easement interest described in the Complaint, Declaration of Taking and Notice of Deposit filed in this action.

2. RME Management, LLC is entitled to take from the Clerk of Court, Orange County, the Thirty-Four Thousand Dollars (\$34,000) previously deposited into the Court by Plaintiff in conjunction with this action and the additional Eleven Thousand Dollars (\$11,000) deposited into the Court by Plaintiff in conjunction with this action for a total amount of Forty-Five Thousand Dollars (\$45,000), which constitutes the sole and exclusive amount to which Defendants are entitled for the property interest identified in the Complaint, Declaration of Taking and Notice of Deposit.

3. No other Defendant in this action is entitled to further relief whatsoever for the taking of the property interests identified in the Complaint, Declaration of Taking and Notice of Deposit.

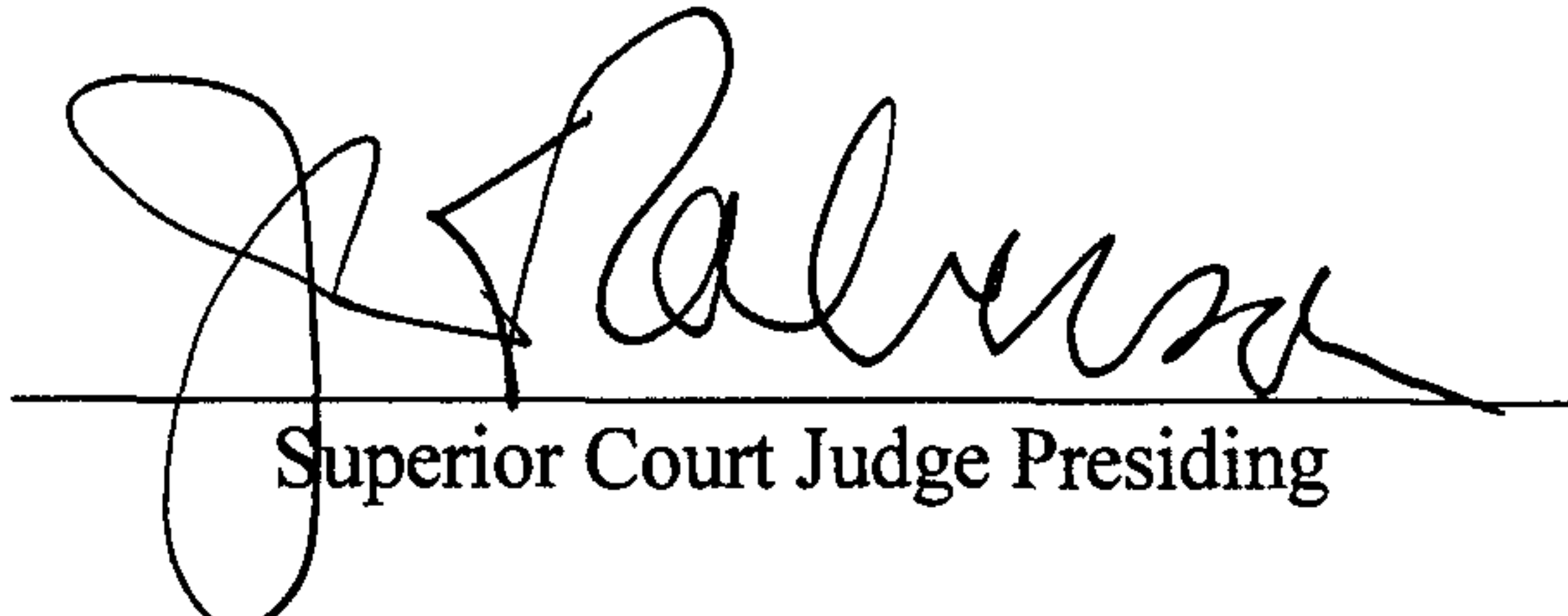
4. This Final Judgment and Order resolves all claims set forth in the Complaint, Declaration of Taking and Notice of Deposit.

5. A copy of this Consent Final Order and Judgment, along with a copy of the Mediated Settlement Agreement, shall be certified under seal of the Court to the Register of Deeds of Orange County and the Register of Deeds be and hereby is ordered to record this judgment among the land records of Orange County.



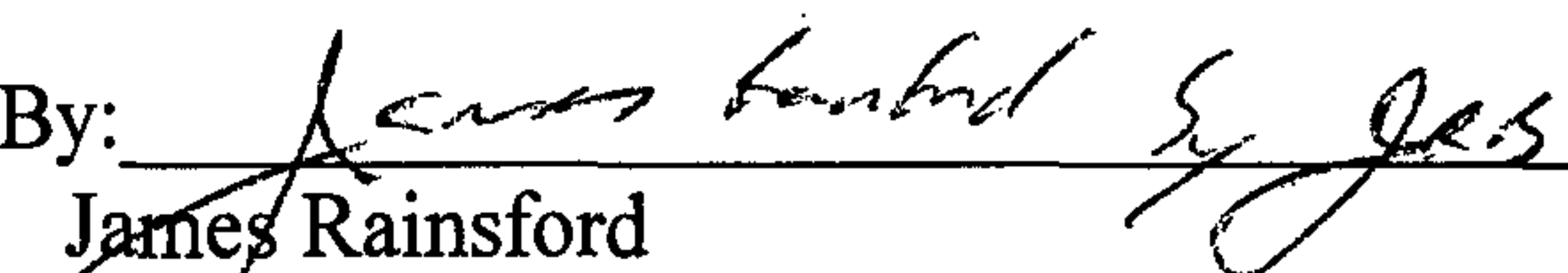
6. Each party shall bear their own costs, including attorneys' fees except that Plaintiff and RME Management, LLC agree to be responsible for the mediator's fee.

This the 11th day of January, 2017.



Superior Court Judge Presiding

CONSENTED TO:

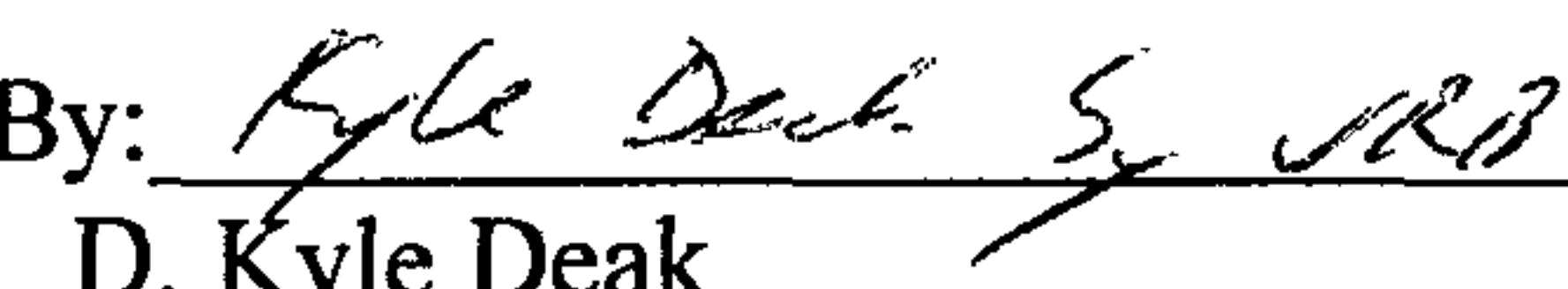
COLEMAN, GLEDHILL, HARGRAVE, MERRITT & RAINSFORD, P.C.

By: 
James Rainsford
129 East Tryon Street
Post Office Drawer 1529
Hillsborough, North Carolina 27278
Attorney for Plaintiff Town of Chapel Hill

HEDRICK, GARDNER, KINCHELOE & GAROFALO, LLP

By: 
James R. Baker
4131 Parklake Avenue, Suite 300
Raleigh, North Carolina 27612
Attorney for Defendant RME Management, LLC

TROUTMAN SANDERS, LLP

By: 
D. Kyle Deak
Post Office Drawer 1389
Raleigh, North Carolina 27607
Attorney for Defendants Chapel H.O.M. Associates, LLC
and Chapel Hill Motel Enterprises, Inc.

